



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,455	12/13/2001	Michelle R. Eaves	E059 1010	4578

7590 08/07/2003
WOMBLE CARLYLE SANDRIDGE & RICE
P.O. Box 7037
Atlanta, GA 30357-0037

EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 08/07/2003

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/015,455

Applicant(s)

EAVES, MICHELLE R.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kazik.**

Broadly Kazik teaches an apparatus for physically-challenged person to receive vestibular motion. The chair has wheels therefore the chair can be moved in any desired movement including one that would induce vestibular motion therapy. The chair also has an adjustable torso support 38 and an adjustable headrest support 40.

3. **Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hickman.** Broadly Hickman teaches an apparatus for physically-challenged person to receive vestibular motion. The walking trainer has wheels therefore the trainer can be moved in any desired movement including one that would induce vestibular motion therapy. The trainer also has an adjustable torso support 40, 41, an adjustable headrest support 50, 51 and a lap belt 38, 39.

4. **Claim 9 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Coleman.** Broadly, Coleman teaches a wheelchair for enabling a person to receive vestibular motion. The wheelchair can be moved in any desired movement including one that would induce vestibular motion therapy. The wheelchair also has an adjustable seat attached to a base by spring mechanism 24. There is safety belt S for adjustably supporting the torso and hip for providing lateral support. The headrest 7c also is adjustable.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suhre in view of Keropian.** Suhre teaches an apparatus for physically-challenged person to receive vestibular motion. The chair has wheels therefore the chair can be moved in any desired movement including one that would induce vestibular motion therapy. Suhre teaches an adjustable torso support at 22 providing lateral support and an adjustable headrest and neck support 32. The torso supports 22 only provide a very limited degree of lateral support for the torso. It would only prevent specific lateral movement. The torso support of Keropian would provide much more restraining support for the torso. It would provide anterior and posterior movement restraint. It includes rotatable support arms 64, a plurality of vertically supported rods 20 with a plurality of locking screws in clamp 24, a pair of adjustable hand brackets 84 and a pair of hand pads 72. It would have been obvious to one of ordinary skill in the art to modify Suhre to use the torso support as taught by Keropian as an obvious equivalent alternative means for restraining the person with much more support and restraint.

7. **Claims 1 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomita et al.** Broadly, Tomita teaches an apparatus for enabling a physically-challenged person to receive vestibular motion therapy while riding a carriage device comprising an adjustable torso support 1260 mounted on the carriage and a headrest support 1280. While Tomita appears

silent with regard to the adjustability of the headrest, providing an adjustable headrest to accommodate different sized users would have been an obvious provision to one of ordinary skill in the art. Regarding claims 6 and 7, details of the operation of the simulation device is well within the realm of the artisan of ordinary skill. Regarding claim 8, Tomita teaches that the appearance of the device can take any desired appearance. Simulating animals or cartoon characters is one of the conventional appearances used for these devices.


8. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman in view of Sigafoo.** Coleman teaches column 8 lines 57-60 that additional belts may be needed to help secure the person when moving from a sitting position to a standing position. Sigafoo teaches the convention of providing shoulder straps in addition to the hip support for helping secure the person in the wheelchair. It would have been obvious to one of ordinary skill in the art to modify Coleman to include additional straps such as shoulder straps as taught by Sigafoo to help secure the person within the wheelchair.

9. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman in view of Keropian.** Coleman teaches column 8 lines 57-60 that additional belts may be needed to help secure the person when moving from a sitting position to a standing position. Keropian teaches additional straps including a pair of support arms as noted above for adding support for the person within the wheelchair. It would have been obvious to one of ordinary skill in the art to modify Coleman to include additional straps such as the rotatable support arms and pair of pads as taught by Keropian to provide additional support for the person during transport and movement from a sitting position to a standing position.

10. **Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman in view of Kornberg.** Coleman already teaches that the headrest 7c is adjustable to accommodate a specific neck condition. The headrest appears to be merely height adjustable. The headrest of Kornberg is also adjustable in the depth direction. It would have been obvious to one of ordinary skill in the art to modify Coleman to include a headrest adjustment means as taught by Kornberg to provide additional degrees of adjustability to the headrest to accommodate different neck conditions.

11. **Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman.** Coleman teaches many different control panels for controlling the operation of the device. Any such details of operation if not inherent in Coleman would have been an obvious provision.

ddd
1 August, 2003
 (703) 308-3713
Fax: (703) 872-9302
danton.demille@uspto.gov


Danton DeMille
Primary Examiner
Art Unit 3764